

REMARKS/ARGUMENTS

Claims 1-4, 6, and 8-16 are pending. Claims 5 and 7 are canceled. Claims 1, 6, 8, 9, and 10 have been amended.

Claims 1-4, 6-8, 12-14, and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,986,576 to Armstrong in view of U.S. Patent No. 6,696,947 to Bybee. Claims 9-11 were rejected as unpatentable over Armstrong and Bybee and further in view of U.S. Patent No. 5,340,069 to Niemeyer. Claim 15 was rejected as unpatentable over Armstrong and Bybee and further in view of U.S. Patent Application Publication 2006/0152175 to Clauberg.

Summary of Amendments

Claim 1 has been amended to introduce the features that are present in the claims of Applicant's corresponding European patent EP 1 695 318 B1, which was granted by the EPO on July 30, 2008 (over prior art that included U.S. Patent No. 5,986,576 to Armstrong). In particular, Claim 1 now recites that each section of the pole has an axial hole therethrough, to form a passage through the sections for a securing line located through the passage, securing means movably securable on the securing line in an axial direction to secure the sections of the pole together.

Claim 6 was amended to harmonize it with amended Claim 1. Claim 8 was amended to depend from Claim 1, in view of the cancellation of Claim 7. Claim 9 was amended to specify that the lip formations are annular (see specification at page 5: "holding means 7 and 8 in the form of annular lips") and they form channel sections that are annular, which is apparent from Figure 1. Claim 10 was amended to depend from Claim 9.

Response to Rejections Based on Armstrong and Bybee

Claim 1

With respect to Claim 1, the Office Action asserted that Armstrong discloses a light assembly 10 comprising a pole having a plurality of inter-engagable sections 24 and 34 located end-to-end to form the pole (Figures 1 and 2), and a light attached at an operatively upper end of the pole (12, 14, and 16). The Office Action conceded that “Amstrong does not expressly disclose each section having a complementary neck and collar formation on one end and a complementary shaped first inner blind bore on an opposite end for receiving the neck of an adjacent section.” However, the Office Action asserted that Bybee discloses these features, and that it would have been obvious to modify Armstrong’s light assembly to include them, because Bybee allegedly shows that it is conventional to assemble multi-sectional poles and similar items by having neck and collar formations on one end and an inner blind bore on the opposite end for receiving the neck.

Applicant respectfully submits that the rejections are erroneous and Claim 1 is patentable over Armstrong and Bybee because (1) Armstrong fails to disclose a *plurality* of interengagable sections, but rather discloses only a *single* section 24 or 27, (2) Bybee would not have suggested making Armstrong’s pole from a plurality of interengagable sections, and (3) the references fail to teach or suggest the sections each having an axial hole to form a passage through the section, with a *securing line located through the passage* and having *securing means movably securable on the securing line in an axial direction to secure the sections of the pole together*. These contentions are elaborated upon below.

(1) Armstrong fails to disclose a *plurality* of interengagable sections:

Armstrong’s pole consists of only one section 24 or 27. Item 34 in Armstrong is a “pole-receiving device” that essentially forms part of the foot or base 30. The pole 24 or 27 is inserted into the pole-receiving device 34. Armstrong desires the pole 24 to be easily removable from the

pole-receiving device 34, and this is accomplished by providing holes 35 in the device 34 for receiving a pin 28 that also passes through holes in the pole 24. In the second embodiment of Figure 2, the pole 27 is height-adjustable by virtue of a series of vertically spaced holes that receive the pin 28, so as to vary the height of the signal device. Because Armstrong's portable signal device does not include a pole having a plurality of sections as claimed in Claim 1, the rejections under 35 U.S.C. 103(a) are submitted to be erroneous.

(2) Bybee would not have suggested making Armstrong's pole from a plurality of interengagable sections:

Bybee fails to suggest the claimed pole structure because Bybee's walls (which, incidentally, are *panels* rather than *poles*) are made from a plurality of interengagable sections solely for the reason that Bybee wants the metal detector to be *foldable* for ease of transportation and so that the detector can be quickly erected for use (see Bybee's Abstract). However, such foldability has no applicability to Armstrong's light pole. That is, a person of ordinary skill in the art would not have been motivated to make Armstrong's light pole foldable for ease of transportation and speed of erection, as there is no evidence that such a modification would actually make transporting the light pole any easier or make erecting it any faster. For at least these reasons, Bybee would not have suggested modifying Armstrong's pole to be formed from a plurality of interengagable sections.

Additionally, Bybee is submitted to be in such a different field of endeavor from Armstrong's light pole, and the panel structures or walls of Bybee's metal detector are so different from Armstrong's light pole structure, that a person of ordinary skill in the light pole art would not have consulted Bybee for the solution to any problem related to light poles. For this further reason, Armstrong and Bybee would not have been combined.

Furthermore, the cited references fail to teach or suggest the "securing line" features that have been added to Claim 1 (which now corresponds to allowed Claim 1 in the corresponding EP patent, as noted above). The Office Action asserted that Bybee's items 104, 106, and 108 meet

the “securing line” of former Claim 7, which is now in Claim 1. This is incorrect. None of the items 104, 106, or 108 is located through a passage formed by axial holes through the wall sections 86, 88, 90, 92, as Claim 1 requires. Rather, item 104 is a latch mounted to an *exterior surface* of the panel 92, item 106 is a movable draw member connected to the latch 104, and item 108 is a latch connected to movable latch 104. All of these components are *exterior* to the wall sections. Nothing in Bybee suggests locating any of these components through a passage formed by axial holes through the wall sections. Furthermore, nothing in Bybee would have suggested modifying Armstrong’s pole to include such latch components. But even if Bybee and Armstrong were combined in this way, the result would be a light pole having externally mounted latches, which is not what Claim 1 requires.

For at least the above reasons, Armstrong and Bybee would not have been combined in the asserted manner, and therefore Claim 1 is patentable over these references. Claims 2-4, 6, and 8-16 are likewise patentable for at least the reason that they include all of the limitations of Claim 1. Further reasons applicable to the dependent claims are also noted below.

Claim 6

Claim 6 depends from Claim 1 and requires that the interconnectable sections have neck and collar formations and inner blind bores, and each section has a first bore in a main body of the section and a second bore in the neck formation so that the assembled pole includes the passage therethrough. The Office Action asserted that Bybee in Figs. 20 and 21 discloses a bore in a neck formation as claimed. This is incorrect. Bybee never states or implies that his panels 86, 88, 90, 92 have any bores therethrough, and in particular never states or implies that the “neck formations” 96, 98 have any bores. For these additional reasons beyond those applicable to Claim 1, Claim 6 is not suggested by Armstrong and Bybee.

Claim 8 is patentable at least because it includes all the limitations of Claims 1 and 6. Additionally, Claim 8 requires that the securing line is a rod having screw-threaded ends for receiving nuts for securing the sections together. Neither Armstrong nor Bybee remotely

suggests such a securing line structure. As noted, Bybee desires the ability to quickly erect his metal detector, and for this reason he employs the latches that can quickly be latched to secure the wall sections together. Using a rod with screw-threaded ends for receiving nuts (which would have to be turned repeatedly to tighten them, as opposed to quickly operating Bybee's latches) would not serve Bybee's purposes, and thus would not have been an obvious substitution.

Response to Rejections Based on Armstrong, Bybee, and Niemeyer

Claim 9 depends from Claim 2 and further recites that the light connector includes lip formations, one lip formation extending upwardly from a base thereof and the other downwardly from an operatively upper end of a cylindrical section to form downwardly and upwardly facing channel sections for receiving lugs at the rear of a traffic light therein. The Office Action conceded that these features are not disclosed by Armstrong or Bybee, but asserted that Niemeyer discloses them and that it would have been obvious to modify the pole of Armstrong/Bybee to incorporate a light connector according to Niemeyer because having lips in the extensions increases the holding force of the assembly.

As an initial matter, Claim 9 is patentable for at least the reason that it includes all of the limitations of Claims 1 and 2, which as noted above are not disclosed by Armstrong and Bybee, and Niemeyer likewise fails to disclose the features missing from Armstrong and Bybee.

Additionally, Niemeyer does not disclose a light connector as required by Claim 9, particularly in view of the amendments to Claim 9 specifying that the lip formations and the channel sections formed by them are *annular*. Lower item 20 in Niemeyer's Figure 1 does not form any annular channel section for receiving a lug of a traffic light. Likewise, upper item 20 does not form any annular channel section for receiving a lug of a traffic light.

For these additional reasons, Claim 9 is not suggested by the cited references and is patentable thereover.

Claim 10 depends from Claim 9 and thus is patentable for at least the reason that it includes all of the limitations of Claims 1, 2, and 9. Claim 10 further recites an adaptor connectable to the light connector, the adaptor having a number of sockets for receiving lights in the sockets, and wherein the adaptor is securable at any position about the cylindrical section. The Office Action asserted that item 100 of Niemeyer is an “adaptor” that is securable at any position about the cylindrical section of the light connector as claimed. Applicant respectfully submits this is incorrect. The “cylindrical section” recited in Claim 10 is part of the light connector that has the annular lip formations. The Office Action asserted that the member 22 of Niemeyer is the “cylindrical section” as claimed. However, the item 100 is not securable in any position about the member 22. The position of the item 100 is dictated by the positions of the upper arm 24 and lower arm 26. Niemeyer says these arms are “fixed” at the top and bottom ends of the member 22 (col. 7, lines 5-8). Thus, there is no evidence from Niemeyer’s disclosure that the item 100 could be “securable at any position about the cylindrical section” as required by Claim 10. Rather, it appears that item 100 is secured in a single invariable position. For these further reasons, Claim 10 is patentable over the cited references.

Claim 11 is patentable for at least the reason that it includes all of the limitations of Claims 1, 2, and 9 from which it depends. Additionally, Claim 11 requires that the base and cylindrical section of the light connector be axially movable relative to each other to move the lip formations away from each other to facilitate insertion of lugs of a light in the opposing channels formed by the lip formations. The Office Action conceded that Armstrong, Bybee, and Niemeyer fail to disclose the features of Claim 11.¹ However, the Office Action asserted that Niemeyer’s “lip formation” (presumably, arm 24 or 26 is intended) is removable, and one skilled in the art would understand that different pole sections may be joined by various ways and means, including the sections being fastened in the axial direction or one or both ends as it is a

¹ The Office Action did assert that Armstrong discloses “the base and cylindrical section are axially movable relative to each other to move the formations away from each other to facilitate adjustment of the height of the light assembly.” Presumably the Office Action is referring to Armstrong’s pole 24/27 (cylindrical section) and pole-receiving device 34 (base). However, these components are clearly not equivalent to the base and cylindrical section of the light connector in Applicant’s claims, and they do not have any “lip formations”.

conventional method of joining adjacent sections of poles and pipes in various arts, wherein any part, including the base and cylindrical section, may be axially movable relative to each other to move the lip formations away from each other to facilitate insertion of lugs at the rear of a light in the opposing channels formed by the lip formations.

Applicant respectfully submits that this reasoning does not make out a proper *prima facie* case of unpatentability for Claim 11. The Patent Office may not simply assert without support that a claim is unpatentable. The Patent Office has the burden of establishing that the prior art would have suggested the claimed subject matter. If the Patent Office knows of prior art that allegedly teaches axially movable annular lip formations forming annular opposing channels that can receive lugs, then it should cite such art; otherwise, it is improper to merely allege that such knowledge is in the prior art. In this case, there is no evidence in Niemeyer that the "lip formations" 24 and 26 are axially movable relative to each other. Furthermore, as already noted, they do not form any annular channels as required by Claim 11 (by its dependence on Claim 9).

Therefore, Applicant submits that Claim 11 is patentable over the cited references.

* * *

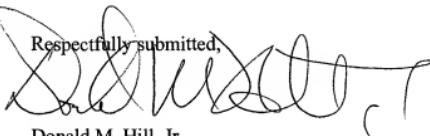
Conclusion

Based on the above amendments and remarks, Applicant respectfully submits that all pending claims are patentable over the cited references, and the application is in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

Appl. No.: 10/596,309
Amdt. dated March 31, 2009
Reply to Office Action of January 6, 2009

therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.


Respectfully submitted,

Donald M. Hill, Jr.
Registration No. 40,646

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON MARCH 31, 2009.